

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the First  
Amended Accusation Against:**

**Michelle A. Thomas, M.D.**

**Case No. 800-2014-008186**

**Physician's and Surgeon's  
Certificate No. A 62122**

**Respondent**

**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on May 17, 2019.**

**IT IS SO ORDERED April 18, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Kristina D. Lawson, J.D., Chair  
Panel B**

1 XAVIER BECERRA  
Attorney General of California  
2 STEVE DIEHL  
Supervising Deputy Attorney General  
3 SARAH J. JACOBS  
Deputy Attorney General  
4 State Bar No. 255899  
California Department of Justice  
5 2550 Mariposa Mall, Room 5090  
Fresno, CA 93721  
6 Telephone: (559) 705-2312  
Facsimile: (559) 445-5106  
7 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12  
13 In the Matter of the First Amended Accusation  
Against:

14 **MICHELLE A. THOMAS, M.D.**  
15 **1099 E Champlain Dr Ste A87**  
16 **Fresno, CA 93720-5030**

17 **Physician's and Surgeon's Certificate No. A**  
18 **62122**

19 Respondent.

Case No. 800-2014-008186

OAH No. 2017101273

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

20  
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
25 of California (Board). She brought this action solely in her official capacity and is represented in  
26 this matter by Xavier Becerra, Attorney General of the State of California, by Sarah J. Jacobs,  
27 Deputy Attorney General.

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1           2.     Respondent Michelle A. Thomas, M.D. (Respondent) is represented in this  
2 proceeding by attorney George L. Strasser, Esq., whose address is: 7690 North Palm Ave., Suite  
3 105, Fresno, CA 93711.

4           3.     On or about April 18, 1997, the Board issued Physician's and Surgeon's Certificate  
5 No. A 62122 to Michelle A. Thomas, M.D. (Respondent). The Physician's and Surgeon's  
6 Certificate was in full force and effect at all times relevant to the charges brought in First  
7 Amended Accusation No. 800-2014-008186, and will expire on May 31, 2020, unless renewed.

8                               JURISDICTION

9           4.     First Amended Accusation No. 800-2014-008186 was filed before the Board, and is  
10 currently pending against Respondent. The First Amended Accusation and all other statutorily  
11 required documents were properly served on Respondent on January 3, 2019. Respondent timely  
12 filed her Notice of Defense contesting the First Amended Accusation.

13          5.     A copy of First Amended Accusation No. 800-2014-008186 is attached as exhibit A  
14 and incorporated herein by reference.

15                               ADVISEMENT AND WAIVERS

16          6.     Respondent has carefully read, fully discussed with counsel, and understands the  
17 charges and allegations in First Amended Accusation No. 800-2014-008186. Respondent has  
18 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
19 Settlement and Disciplinary Order.

20          7.     Respondent is fully aware of her legal rights in this matter, including the right to a  
21 hearing on the charges and allegations in the First Amended Accusation; the right to confront and  
22 cross-examine the witnesses against her; the right to present evidence and to testify on her own  
23 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the  
24 production of documents; the right to reconsideration and court review of an adverse decision;  
25 and all other rights accorded by the California Administrative Procedure Act and other applicable  
26 laws.

27          8.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
28 every right set forth above.

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in First Amended  
3 Accusation No. 800-2014-008186, if proven at a hearing, constitute cause for imposing discipline  
4 upon her Physician's and Surgeon's Certificate.

5 10. For the purpose of resolving the First Amended Accusation without the expense and  
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
7 establish a factual basis for the charges in the First Amended Accusation, and that Respondent  
8 hereby gives up her right to contest those charges.

9 11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to  
10 discipline and she agrees to be bound by the Board's probationary terms as set forth in the  
11 Disciplinary Order below.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Medical Board of California.  
14 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
15 Board of California may communicate directly with the Board regarding this stipulation and  
16 settlement, without notice to or participation by Respondent or her counsel. By signing the  
17 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek  
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
21 action between the parties, and the Board shall not be disqualified from further action by having  
22 considered this matter.

23 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
24 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
25 signatures thereto, shall have the same force and effect as the originals.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
27 the Board may, without further notice or formal proceeding, issue and enter the following  
28 Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 62122 issued to Respondent Michelle A. Thomas, M.D. shall be and is hereby Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand is issued in connection with the conduct as set forth in First Amended Accusation No. 800-2014-008186.

1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

2. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
2 or its designee, be accepted towards the fulfillment of this condition if the course would have  
3 been approved by the Board or its designee had the course been taken after the effective date of  
4 this Decision.

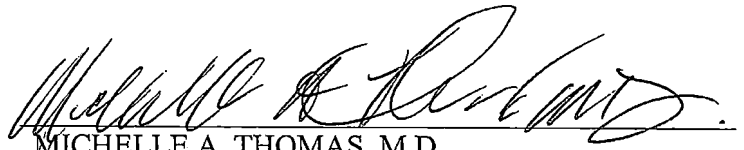
5 Respondent shall submit a certification of successful completion to the Board or its  
6 designee not later than 15 calendar days after successfully completing the course, or not later than  
7 15 calendar days after the effective date of the Decision, whichever is later.

8 3. Failure to fully comply with the above terms and conditions of this Disciplinary  
9 Order shall constitute unprofessional conduct and will subject Respondent's Physician's and  
10 Surgeon's Certificate to further disciplinary action.

11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
13 discussed it with my attorney, George L. Strasser, Esq. I understand the stipulation and the effect  
14 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement  
15 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
16 Decision and Order of the Medical Board of California.

17  
18 DATED: 2/8/2019

  
MICHELLE A. THOMAS, M.D.  
Respondent

20 I have read and fully discussed with Respondent Michelle A. Thomas, M.D. the terms and  
21 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
22 I approve its form and content.

23 DATED: 2/8/2019

  
GEORGE L. STRASSER, ESQ.  
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 2/8/19

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California



STEVE DIEHL  
Supervising Deputy Attorney General  
*Attorneys for Complainant*

FR2017305559  
13440100

**Exhibit A**

**First Amended Accusation No. 800-2014-008186**



1 XAVIER BECERRA  
Attorney General of California  
2 GLORIA L. CASTRO  
Senior Assistant Attorney General  
3 STEVE DIEHL  
Supervising Deputy Attorney General  
4 State Bar No. 235250  
California Department of Justice  
5 2550 Mariposa Mall, Room 5090  
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7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Jan. 3 2019  
BY SARA P. S. D. N. ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation  
Against:

Case No. 800-2014-008186

12 **MICHELLE A. THOMAS, M.D.**  
13 1099 E Champlain Dr Ste A87  
Fresno, CA 93720-5030

**FIRST AMENDED ACCUSATION**

14 **Physician's and Surgeon's Certificate No.**  
15 **No. A 62122,**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this First Amended Accusation solely in  
21 her official capacity as the Executive Director of the Medical Board of California, Department of  
22 Consumer Affairs (Board).

23 2. On or about April 18, 1997, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 62122 to Michelle A. Thomas, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on May 31, 2020, unless renewed.  
27  
28 \\\

**JURISDICTION**

3. This First Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1       “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
2 violation of, or conspiring to violate any provision of this chapter.

3       “(b) Gross negligence.

4       “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
6 the applicable standard of care shall constitute repeated negligent acts.

7       “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9       “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
11 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
12 applicable standard of care, each departure constitutes a separate and distinct breach of the  
13 standard of care.

14       “(d) Incompetence.

15       “(e) The commission of any act involving dishonesty or corruption which is substantially  
16 related to the qualifications, functions, or duties of a physician and surgeon.

17       “(f) Any action or conduct which would have warranted the denial of a certificate.

18       “(g) The practice of medicine from this state into another state or country without meeting  
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
20 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
21 proposed registration program described in Section 2052.5.

22       “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
24 who is the subject of an investigation by the board.”

25       6.     Section 2266 of the Code states: “The failure of a physician and surgeon to maintain  
26 adequate and accurate records relating to the provision of services to their patients constitutes  
27 unprofessional conduct.”

28       \\

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 7. Respondent is subject to disciplinary action under section 2234, subdivision (b), in  
4 that she engaged in an act or acts amounting to gross negligence. The circumstances are as  
5 follows:

6 8. Between June 2014 and April 2015, Respondent was employed as Medical Director  
7 for the Fresno County Jail and Juvenile Justice Campus. As Medical Director, she was  
8 responsible for overseeing the medical care provided at the jail and to supervise other medical  
9 staff.

10 9. Patient 1 was an inmate and patient in the Fresno County Jail during Respondent's  
11 time as Medical Director. He had been in a wheelchair for several years as a result of a medical  
12 condition with his right knee. He has a history of Osgood Schlatter's syndrome, a condition  
13 which causes knee pain in adolescence. In 2006, Patient 1 had surgery for a meniscus tear in the  
14 right knee. Following the surgery, Patient 1 re-injured his knee, and began using a wheelchair  
15 because he could not perform weight bearing on the right leg. Over time, Patient 1's right leg  
16 muscles atrophied. In 2013, Patient 1 received physical therapy, allowing him eventually to use a  
17 walker. However, in June 2013, Patient 1 was transferred to Fresno County Jail, where he  
18 stopped exercising and did not receive further physical therapy. Patient 1 lost his ability to walk,  
19 and returned to being wheelchair bound. He had previously been fitted with a knee brace, but  
20 since that time he had lost substantial weight and by 2014 the knee brace no longer fit, and did not  
21 provide adequate support to allow Patient 1 to walk.

22 10. On or about July 1, 2014, Respondent performed a medical evaluation of Patient 1.  
23 Respondent noted a heart and lung exam, but she did not note a neurological or orthopedic  
24 examination. Respondent did not examine Patient 1's lower extremities. Respondent did not ask  
25 Patient 1 to walk or stand. In an investigative interview, Respondent stated that Patient 1 refused  
26 to be examined; however, Respondent did not note this refusal in her chart. Respondent noted  
27 that Patient 1 used his feet to move around in his wheelchair, as opposed to moving the wheels  
28 with his hands.

1           11. On or about July 25, 2014, Respondent ordered that Patient 1's wheelchair be  
2 removed. Respondent noted that Patient 1 may be allowed to use a walker, and ordered a physical  
3 therapy evaluation. Although Respondent's order was dated July 25, 2014, Patient 1's wheelchair  
4 was not removed until on or about August 27, 2014. At the time Respondent ordered that the  
5 wheelchair be removed, Patient 1 had not undergone a physical therapy evaluation, and no  
6 instructions had been given to the patient for the transition from a wheelchair to a walker. No  
7 evaluation had been done to determine whether the patient could walk using a walker.

8           12. On or about August 27, 2014, Respondent's order to remove Patient 1's wheelchair  
9 was finally carried out. He had not yet undergone a physical therapy evaluation. He was unable  
10 to ambulate with a walker. Shortly thereafter, he had an appointment to have his eyeglasses  
11 repaired. He was taken from his cell with the walker. He was unable to walk, and fell. He was  
12 not given a wheelchair, and as a result, he missed his appointment. Patient 1 then filed a  
13 grievance with the jail, requesting the return of his wheelchair. A camera was installed in Patient  
14 1's cell to observe whether he was ambulating. After approximately a week, Patient 1's  
15 wheelchair was returned to him.

16           13. On or about September 5, 2014, Patient 1 had an evaluation with physical therapy.  
17 The physical therapist noted that Patient 1 had been unable to walk since June 2013. On  
18 examination, Patient 1 was unable to support his weight on his right leg. He was only able to  
19 stand for 1-2 seconds. Patient 1 had muscle tremors bilaterally, right more than left. His right  
20 knee extension strength was reported as 2/5 with tremors. His right knee ligaments were loose,  
21 making the joint unstable. The physical therapist concluded that Patient 1 would require physical  
22 therapy, and that he would require a wheelchair until he could build the strength to ambulate.

23           14. Respondent's chart for Patient 1 contains several copies of the same order sheet,  
24 apparently photocopied, but with changes and alterations from one sheet to the next, such as  
25 different orders, different dates, and signatures present or not. It is unclear which order sheet, if  
26 any, represents the true medical record.

27           15. The standard of care requires that when a patient has been in a wheelchair for an  
28 extended period of time, that the patient undergo an evaluation of the patient's medical condition

1 before the patient is transitioned to a walker. Respondent failed to perform a complete physical  
2 examination of Patient 1, in that she failed to perform an orthopedic or neurological examination,  
3 and she failed to examine his lower extremities. Respondent failed to determine whether Patient  
4 1 could use a walker by actually observing him attempt to walk or stand. Although Respondent  
5 ordered a physical therapy evaluation, she ordered that Patient 1's wheelchair be removed before  
6 such an evaluation took place. Respondent's failure to evaluate Patient 1's medical condition,  
7 prior to ordering the removal of his wheelchair, is an extreme departure from the standard of care.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Recordkeeping)**

10 16. Respondent is subject to disciplinary action under section 2266 in that she maintained  
11 inadequate and inaccurate medical records. The circumstances are set forth in paragraphs 8  
12 through 15, above, which are incorporated here by reference as if fully set forth.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Medical Board of California issue a decision:

- 16 1. Revoking or suspending Physician's and Surgeon's Certificate No. Number A 62122,  
17 issued to Michelle A. Thomas, M.D.;
- 18 2. Revoking, suspending or denying approval of Michelle A. Thomas, M.D.'s authority  
19 to supervise physician assistants and advanced practice nurses;
- 20 3. Ordering Michelle A. Thomas, M.D., if placed on probation, to pay the Board the  
21 costs of probation monitoring; and
- 22 4. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: January 3, 2019

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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